

Re: Senate EA banking question

From: "Nathoo, Farees" [Personal Info.]
To: "Milech, Michael" [Personal Info.]
Cc: "Kropman, Alexann" <alexann.kropman@fin.gc.ca>, "Penney, Michael" [Personal Info.], "Hurl, David" <david.hurl@fin.gc.ca>
Date: Sun, 20 Feb 2022 23:58:38 +0000

See below!

We have been looking at right to open a bank account under the regs for section 448.1(1) of the Bank Act, which I've copied below. It helps, but it raises two questions. First, these regs establish a right to open an account, but how do they apply to people trying to have existing accounts unfrozen? Second, what does "history of illegal activity" mean in subsection (b) – does this give banks the right to refuse service to someone who used their account to support the convoy?

As a reminder, the Emergencies Act and orders issued under it apply in this current moment. If there are any folks who feel they have been wrongfully affected they should contact law enforcement and their financial institutions. See below answers to your specific questions on the Bank Act.

- The Bank Act requires banks to open a retail deposit account for an individual so long as the person presents the required identification. A bank can refuse to open an account for an individual if it suspects fraud, illegal activity or misrepresentation, or to protect its customers or employees from physical harm, harassment or other abuse. In these cases, banks must provide the individual with a written explanation of its refusal to open an account as well as provide contact information for the Financial Consumer Agency of Canada (FCAC).

- Further, banks have a right to limit the risk to the institution by placing reasonable constraints on an account-holder, including when it believes an account may have been used for 'illegal activities'. The FCAC has issued guidance (CG-2) that provides further clarification.

- There are no statutory requirements for a bank to unfreeze accounts.

- Further information can be found in this FCAC publication<<https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Fwww.canada.ca%2Fen%2Ffinancial-consumer-agency%2Fservices%2Fbanking%2Fopening-bank-account.html&data=04%7C01%7Calexann.kropman%40fin.gc.ca%7Cff19c6fe86a84c9bb30208d9f4ccebcd%7Cc8d186b6faab43fb98c018a0dfa65ac1%7C0%7C0%7C637809983228612761%7CUnknown%7CTWFpbGZsb3d8eyJWlIjoIJCjQJIjoiV2luMzliLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000&data=DmWyyKcWmK%2FqnMCREsClRwj6NB CdIrQbWhhql17LSvA%3D&reserved=0>>

Also, do you have lines in response to the accusation that single moms in Chilliwack are being targeted? It would be good to know what Sen. Gold can simply debunk, but regardless of whether it's true, we'll be asked what recourse someone has if their account is frozen unjustly or by mistake - anything on that?

For public facing use I would say:

The Orders under the Emergencies Act took effect on February 15 and the order does not apply retroactively. An account could be frozen if the individual provided financial support after the 15th or is still providing financial support directly or indirectly to these unlawful assemblies. The focus of this order is on individuals and entities identified by law enforcement who are currently participating in, or actively financially supporting, the illegal blockades.

Also Michael, FYI, journalists are out on twitter debunking this claim or seeking further validation.

<https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2Fakurjata%2Fstatus%2F1495517045630193665%3Fs%3D21&data=04%7C01%7Calexann.kropman%40fin.gc.ca%7Cff19c6fe86a84c9bb30208d9f4ccebcd%7Cc8d186b6faab43fb98c018a0dfa65ac1%7C0%7C0%7C637809983228612761%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000&sdata=%2FJJhk3oWkLF47VdshzBQZkx84kuKHRjrAJPEvG0K9hM%3D&reserved=0>

<https://can01.safelinks.protection.outlook.com/?url=https%3A%2F%2Ftwitter.com%2Fpjeejayaitc%2Fstatus%2F1495516934254645249%3Fs%3D21&data=04%7C01%7Calexann.kropman%40fin.gc.ca%7Cff19c6fe86a84c9bb30208d9f4ccebcd%7Cc8d186b6faab43fb98c018a0dfa65ac1%7C0%7C0%7C637809983228612761%7CUnknown%7CTWFpbGZsb3d8eyJWIjoiMC4wLjAwMDAiLCJQIjoiV2luMzIiLCJBTiI6IklhaWwiLCJXVCi6Mn0%3D%7C3000&sdata=ZCUQ7TlyNEJzp4bu%2BOi%2BMmcAAEUuIRnQwodiOPkm7s8%3D&reserved=0>

Farees Nathoo

Personal Info.

On Feb 20, 2022, at 18:20, Milech, Michael <Personal Info. > wrote:

Hey. Wondering if you have anything on this yet.

Also, do you have lines in response to the accusation that single moms in Chilliwack are being targeted? It would be good to know what Sen. Gold can simply debunk, but regardless of whether it's true, we'll be asked what recourse someone has if their account is frozen unjustly or by mistake - anything on that?

Thanks again

-----Original Message-----

From: Nathoo, Farees <Personal Info. >

Sent: Friday, February 18, 2022 3:25 PM

To: Milech, Michael <Personal Info. >

Cc: alexann.kropman@fin.gc.ca; Penney, Michael <Personal Info. [REDACTED] a>; David Hurl <david.hurl@fin.gc.ca>
Subject: Re: Senate EA banking question

[***EXTERNE/EXTERNAL***]

Michael, thank you for this. We will get you an answer in writing from officials.

Farees Nathoo

Personal Info. [REDACTED]

On Feb 18, 2022, at 14:56, Milech, Michael <Personal Info. [REDACTED]> wrote:

Hi Farees, Alexann,

One of the main concerns we've been hearing from senators is that people who have their accounts frozen may have trouble getting them unfrozen, or may be blackballed by financial institutions, even after the emergency orders are revoked. In briefings, your officials have said that they've spoken to the banks and they don't think this will be a problem, but as you can imagine, "trust the banks" isn't a winning response. Hoping you can help get us a better answer.

I was talking to David Hurl this morning, and he pointed me to the right to open a bank account under the regs for section 448.1(1) of the Bank Act, which I've copied below. It helps, but it raises two questions. First, these regs establish a right to open an account, but how do they apply to people trying to have existing accounts unfrozen? Second, what does "history of illegal activity" mean in subsection (b) – does this give banks the right to refuse service to someone who used their account to support the convoy?

It would be great if you could get us more information over the weekend, and hopefully have Minister Freeland prepped with this if/when she speaks to senators.

Thanks very much,

Michael

Michael Milech

Director of Parliamentary Affairs | Directeur des affaires parlementaires Officer of the Honourable Patti LaBoucane-Benson | Cabinet de l'honorable Patti LaBoucane-Benson Senate of Canada | Sénat du Canada

Refusal to open account

* 3 (1) Subject to subsection (2), subsection 448.1(1) of the Act does not apply in the following circumstances:

o (a) if the member bank has reasonable grounds to believe that the retail deposit account will be used for illegal or fraudulent purposes;

- o (b) if the individual has a history of illegal or fraudulent activity in relation to providers of financial services and if the most recent instance of such activity occurred less than seven years before the day on which the request to open a retail deposit account is made;
- o (c) if the member bank has reasonable grounds to believe that the individual, for the purpose of opening the retail deposit account, knowingly made a material misrepresentation in the information provided to the member bank;
- o (d) if the member bank has reasonable grounds to believe that it is necessary to refuse to open the retail deposit account in order to protect the customers or employees of the member bank from physical harm, harassment or other abuse; or
- o (e) if the request is made at a branch or point of service of a member bank at which the only retail deposit accounts offered are those that are linked to an account at another financial institution.

***EXTERNE: Ce message provient de l'extérieur de la Cité parlementaire. Évitez de cliquer sur un lien hypertexte, une pièce jointe ou de partager des informations si vous ne connaissez pas l'expéditeur. N'hésitez pas à communiquer avec le Centre de service des TI si vous avez des questions.

***EXTERNAL: This email originates from outside the parliamentary precinct. Avoid clicking on a hyperlink, an attachment or sharing information if you don't know the sender. Do not hesitate to contact the IT Service Desk if you have any questions.
